### IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

CIRBA INC. (d/b/a DENSIFY)
and CIRBA IP, INC.,

Plaintiffs,

V.

C.A. No. 19-742-LPS

VMWARE, INC.,

Defendant.

# DEFENDANT VMWARE'S MOTIONS FOR JUDGMENT AS A MATTER OF LAW, FOR A NEW TRIAL AND REMITTITUR, AND TO DISMISS CIRBA INC. FOR LACK OF STANDING

Pursuant to the Court's February 10, 2020 Order (D.I. 574) and Federal Rules of Civil Procedure 12, 50, and 59, Defendant VMware, Inc. hereby moves the Court for judgment as a matter of law, for a new trial and remittitur, and for dismissal of Cirba Inc. for lack of standing.

The grounds for the motions are fully set forth in Defendant VMware's Opening Brief in Support of Motions for Judgment as a Matter of Law, for a New Trial and Remittitur, and to Dismiss Cirba Inc. for Lack of Standing, as well as in the Declaration of Richard S.J. Hung in Support of VMware's Motions for Judgment as a Matter of Law, for a New Trial and Remittitur, and to Dismiss Cirba Inc. for Lack of Standing, filed contemporaneously herewith.

Dated: March 9, 2020

#### OF COUNSEL:

Arturo J. González
Michael A. Jacobs
Richard S. J. Hung
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7000
agonzalez@mofo.com
mjacobs@mofo.com
rhung@mofo.com

Deanne E. Maynard Brian R. Matsui MORRISON & FOERSTER LLP 2000 Pennsylvania Avenue, NW Suite 6000 Washington, D.C. 20006 (202) 887-1500 dmaynard@mofo.com bmatsui@mofo.com

Seth P. Waxman
Thomas G. Saunders
WILMER CUTLER PICKERING HALE
AND DORR LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 663-6000
seth.waxman@wilmerhale.com
thomas.saunders@wilmerhale.com

William F. Lee WILMER CUTLER PICKERING HALE AND DORR LLP 60 State Street Boston, MA 02109 (617) 526-6000 william.lee@wilmerhale.com

## YOUNG CONAWAY STARGATT & TAYLOR, LLP

### /s/ Anne Shea Gaza

Anne Shea Gaza (No. 4093)
Robert M. Vrana (No. 5666)
Samantha G. Wilson (No. 5816)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
agaza@ycst.com
rvrana@ycst.com
swilson@ycst.com

Attorneys for VMware, Inc.

### **CERTIFICATE OF SERVICE**

I, Anne Shea Gaza, hereby certify that on March 9, 2020, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Kenneth L. Dorsney, Esquire Morris James LLP 500 Delaware Avenue, Suite 1500 Wilmington, DE 19801 kdorsney@morrisjames.com

Attorney for Plaintiffs/Counter-Defendants

I further certify that on March 9, 2020, I caused the foregoing document to be served via electronic mail upon the above-listed counsel and on the following:

Courtland L. Reichman, Esquire Shawna L. Ballard, Esquire Jennifer Estremera, Esquire Michael G. Flanigan, Esquire Joachim B. Steinberg, Esquire Kate Falkenstien, Esquire Ariel C. Green, Esquire Reichman Jorgensen LLP 100 Marine Parkway, Suite 300 Redwood Shores, CA 94065

Sarah O. Jorgensen, Esquire Reichman Jorgensen LLP 1201 West Peachtree Street, Suite 2300 Atlanta, GA 30309

Christine E. Lehman, Esquire Reichman Jorgensen LLP 818 Connecticut Ave., N.W., Suite 850 Washington, DC 20006 Jaime F. Cardenas-Navia, Esquire Wesley Lanier White, Esquire Khue V. Hoang, Esquire Reichman Jorgensen LLP 750 Third Avenue, Suite 2400 New York, NY 10017

RJ densify@reichmanjorgensen.com

Gary J. Toman, Esquire Weinberg Wheeler Hudgins Gunn & Dial 3344 Peachtree Road NE, Suite 2400 Atlanta, GA 30326 gtoman@wwhgd.com

Peter J. Ayers, Esquire Law Office of Peter J. Ayers, PLLC 2200 Bowman Avenue Austin, TX 78703 peter@ayersiplaw.com

Attorneys for Plaintiffs/Counter-Defendants

Dated: March 9, 2020 YOUNG CONAWAY STARGATT & TAYLOR, LLP

<u>/s/ Anne Shea Gaza</u>

Anne Shea Gaza (No. 4093) Robert M. Vrana (No. 5666) Samantha G. Wilson (No. 5816) Rodney Square 1000 N. King Street Wilmington, Delaware 19801 agaza@ycst.com rvrana@ycst.com swilson@ycst.com

Attorneys for VMware, Inc.